

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

DOUGLAS W. BAILLIE,)
)
 Plaintiff,)
)
 -vs-) CASE NO. C-1-02-062
)
CHUBB & SON INSURANCE,)
)
 Defendant.)

The deposition upon oral examination of
THOMAS B. BREINER, a witness produced and sworn before
me, Tavi L. Fraga, a Notary Public in and for the
County of Boone, State of Indiana, taken on behalf of
the plaintiff at the offices of Haskin Lauter & LaRue,
255 North Alabama Street, Indianapolis, Marion County,
Indiana, on the 26th day of September, 2003, pursuant
to the Indiana Rules of Trial Procedure.

ASSOCIATED REPORTING, INC.
TWO MARKET SQUARE CENTER, SUITE 940
251 EAST OHIO STREET
INDIANAPOLIS, IN 46204
(317) 631-0940

Exhibit P

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1 Q. What do you recall about that performance review?
 2 A. That I was rated lower than I thought I should have
 3 been, based on the goals that I had been provided or
 4 agreed to.
 5 Q. Now, let me direct your attention to the calendar
 6 year 2002 and, first of all, I'll ask you whether or
 7 not you had managers reporting to you at that time in
 8 your branch?
 9 A. Yes, I did.
 10 Q. Do you recall whether or not you had a number of new
 11 managers reporting to you in your branch?
 12 A. In 2002?
 13 Q. Yes.
 14 A. I had several.
 15 Q. Now, I want to direct your attention to a meeting I
 16 believe you had with Mr. Szerlong in Chicago during
 17 the summer of 2002, okay? Are you with me?
 18 A. (Witness nodding head.)
 19 Q. Do you recall any statements by Mr. Breiner during
 20 any meeting you had with him in Chicago in the summer
 21 of 2002 in which he referred to your age?
 22 A. I believe in your question you used my name, and I
 23 believe you intended to use --
 24 Q. Oh, did I say Mr. Breiner?
 25 A. Yes.

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1 Q. I'm sorry, yes, I did. Please substitute
 2 Mr. Szerlong.
 3 A. Could you repeat the question, please?
 4 Q. I can. Do you recall Mr. Szerlong ever making any
 5 reference to your age in a meeting with you?
 6 A. Yes.
 7 Q. Tell us, first of all -- well, tell us what happened
 8 at that meeting.
 9 A. It was a meeting where I was in Chicago with the
 10 purposes of bringing Mr. Szerlong up-to-date on
 11 activity in the branch and issues in the branch and
 12 to discuss the current state of affairs. And my age
 13 was brought up in proportion to one of the
 14 discussions.
 15 Q. How was your age brought up?
 16 A. My age was brought up in that it could be a factor in
 17 terms of how I related to younger managers and
 18 developed younger managers and understood younger
 19 managers in my branch.
 20 Q. Do you recall Mr. Szerlong telling you something in
 21 substance that you may have a challenge managing some
 22 managers at your particular age?
 23 MR. MONTGOMERY: Objection; leading; misstates
 24 the testimony.
 25 A. Please repeat the question.

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1 Q. Do you recall Mr. Breiner -- I'm sorry. Do you
 2 recall Mr. Szerlong telling you, in effect, or
 3 perhaps exactly, that you would have a challenge
 4 managing certain managers, quote, at your age,
 5 unquote?
 6 MR. MONTGOMERY: Objection; leading and it
 7 misstates the testimony.
 8 A. He did not say in effect or -- I'm not sure I
 9 understand that aspect of the question. And there
 10 was no discussion of specific managers that might be
 11 younger that might be a challenge for me to manage.
 12 Q. But he made a reference to your age?
 13 A. Yes.
 14 Q. Did you form a belief at that time as to whether or
 15 not Mr. Szerlong was regarding your age as being a
 16 positive or a negative?
 17 A. He created concern in my mind.
 18 Q. Explain to me the concern he created in your mind.
 19 A. That my age was being viewed as a factor in my
 20 ability to successfully perform my duties.
 21 Q. Now, did you do anything as a result of receiving
 22 this information from Mr. Szerlong, take any action?
 23 A. I had had a subsequent discussion with the head of
 24 U.S. field operations for human resources and
 25 expressed my concern that that statement or that

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1 situation had occurred.
 2 Q. And you had that discussion in what calendar year?
 3 A. I don't recall if it was late 2002 or early two
 4 thousand -- I believe it was early 2003.
 5 Q. And who was that?
 6 A. His name was Mike Marinaro.
 7 Q. Tell me, what do you recall about what you reported
 8 Mr. Marinaro?
 9 A. I simply expressed my concern about the fact that the
 10 statement was made.
 11 Q. Did Mr. Marinaro ask you any -- or strike that.
 12 Do you recall where you were when you reported
 13 this to Mr. Marinaro?
 14 A. Yes. We had a meeting in Indianapolis.
 15 Q. And did Marinaro -- Marinaro, you say he was the head
 16 of U.S. field operations?
 17 A. That's my understanding of his title.
 18 Q. It's not a human resource function?
 19 A. Yes, it is. He would be responsible for human
 20 resources for the United States.
 21 Q. All right. And when you expressed this concern to
 22 him face-to-face in Indianapolis, how much time would
 23 you estimate he spent discussing your concern with
 24 you in Indianapolis, specifically about the age
 25 concern, if any time at all?